

**DRAFT  
REDACTED**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
Item 14, I. D. 5966  
**ENERGY DIVISION**  
**RESOLUTION E-4024**  
9/21/06

**R E S O L U T I O N**

Resolution E-4024, Pacific Gas & Electric Company (PG&E).

By Advice Letter 2828 E, filed on May 15, 2006. PG&E requests approval of an amendment to a renewable energy contract already approved by the Commission. PG&E's request is approved without modifications.

---

**SUMMARY**

**PG&E's amended contract complies with the Renewable Portfolio Standard (RPS) procurement guidelines and is approved**

PG&E requests approval of an amendment to a renewable energy contract that was approved by the Commission in Resolution E-3946 on July 21, 2005. PG&E's request for approval of the amended renewable resource procurement contract is granted pursuant to D.04-06-014 and subsequent letter by the CPUC's Executive Director on June 30, 2004. The energy acquired from this contract will count towards PG&E's Renewable Portfolio Standard (RPS) requirements.

<b>Generating facility</b>	<b>Type</b>	<b>Term Years</b>	<b>MW Capacity</b>	<b>Annual GWh Energy</b>	<b>Location</b>	<b>Online Date</b>
Buena Vista	Wind Repower	10	43 <sup>1</sup>	108	Altamont Pass, CA	Dec. 31, 2006

---

<sup>1</sup> 5.45 MW increase from project prior to repowering

On May 15, 2006, PG&E filed Advice Letter (AL) 2828-E requesting Commission approval of an amendment to the Buena Vista renewable procurement contract, which resulted from PG&E's July 15, 2004 solicitation and was initially approved by the Commission on July 21, 2005 in Resolution E-3946. The contract amendments slightly increase the contract price, reduce the length of the contract from 15 to 10 years, and increase the Project Development Security and Performance Assurance amounts.

The Commission's approval of this amended PPA will contribute significantly towards PG&E's renewable procurement goals. In 2004, the year of this RPS solicitation, PG&E's IPT was 711 GWh. The amended PPA will contribute an incremental aggregate of **108 GWh** per year.<sup>2</sup>

Deliveries from the power purchase agreement (PPA) are priced at or below the 2004 market price referent (MPR) and thus do not require supplemental energy payments (SEPs) from the California Energy Commission (CEC).

**Confidential information about the contract should remain confidential**

This resolution finds that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D. 06-06-066 should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

**BACKGROUND**

**The RPS Program requires each utility to increase the amount of renewable energy in its portfolio**

The California Renewables Portfolio Standard (RPS) Program was established by Senate Bill 1078, effective January 1, 2003. It requires that a retail seller of electricity such as SDG&E purchase a certain percentage of electricity generated by Eligible Renewable Energy Resources (ERR). The RPS program is set out at Public Utilities Code Section 399.11, et seq. Each utility is required to increase its total procurement of ERRs by at least 1% of annual retail sales per year so that 20% of its retail sales are supplied by ERRs by 2017.

---

<sup>2</sup> The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. See Public Utilities Code Sect. 399.12 and CPUC decision D.04-06-014.

The State's Energy Action Plan (EAP) called for acceleration of this RPS goal to reach 20 percent by 2010. This was reiterated again in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004<sup>3</sup>, which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets (APTs) for 2004, in order to make progress towards the goal expressed in the EAP.<sup>4</sup>

For 2004 the Commission established an APT for each utility, which consists of two separate components: the baseline, representing the amount of renewable generation a utility must retain in its portfolio to continue to satisfy its obligations under the RPS targets of previous years; and the incremental procurement target (IPT), defined as at least one percent of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts. D.04-06-014 established a 2004 APT for PG&E of 711 GWh<sup>5</sup>.

#### **R.04-04-026 established procurement guidelines for the RPS Program**

The Commission has issued a series of decisions that establish the regulatory and transactional parameters of the utility renewables procurement program. On June 19, 2003, the Commission issued its "Order Initiating Implementation of the Senate Bill 1078 Renewable Portfolio Standard Program," D.03-06-071. On June 9, 2004, the Commission adopted its Market Price Referent methodology<sup>6</sup> for determining the Utility's share of the RPS seller's bid price, as defined in Public Utilities Code Sections 399.14(a)(2)(A) and 399.15(c). On the same day the Commission adopted standard terms and conditions for RPS power purchase agreements in D.04-06-014 as required by Public Utilities Code Section 399.14(a)(2)(D). Instructions for evaluating the value of each offer to sell products requested in a RPS solicitation were provided in D.04-07-029.

#### **PG&E Requests final "CPUC Approval" of Amended PPA**

On May 15, 2006, PG&E filed Advice Letter (AL) 2828-E requesting Commission approval of an amendment to the Buena Vista renewable procurement contract.

---

<sup>3</sup> [http://www.cpuc.ca.gov/Published/Final\\_decision/36206.htm](http://www.cpuc.ca.gov/Published/Final_decision/36206.htm)

<sup>4</sup> Most recently reaffirmed in D.05-07-039

<sup>5</sup> D.04-06-014, Appendix B, p. 3

<sup>6</sup> D.04-07-015

PG&E requests approval of an amendment to a renewable energy contract resulting from PG&E's July 15, 2004 solicitation and approved by the Commission on July 21, 2005 in Resolution E-3946. The contract amendments slightly increase the contract price, reduce the length of the contract from 15 to 10 years, and increase the Project Development Security and Performance Assurance amounts.

The Commission's approval of this amended PPA will contribute significantly towards PG&E's renewable procurement goals. In 2004, the year of this RPS solicitation, PG&E's IPT was 711 GWh. The amended PPA will contribute an incremental aggregate of **108 GWh** per year.<sup>7</sup>

PG&E requests the Commission to issue a resolution containing the findings required by the definition of "CPUC Approval" in Appendix A of D.04-06-014. In addition, PG&E requests that the Commission issue a resolution that approves:

1. Approves the amendment in its entirety, including payments to be made by PG&E, subject to CPUC review of PG&E's administration of the amended Agreement.
2. Finds that any procurement pursuant to the amended agreement is procured from an eligible renewable energy resource for purposes of determining PG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law;
3. Finds that any procurement pursuant to this Agreement constitutes incremental procurement or procurement for baseline replenishment by PG&E from an eligible renewable energy resource for purposes of determining PG&E's compliance with any obligation to increase its total procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard, CPUC Decision 03-06-071, or other applicable law;
4. Finds that any indirect costs of renewables procurement identified in Section 399.15 (a)(2) shall be recovered in rates.

---

<sup>7</sup> The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. See Public Utilities Code Sect. 399.12 and CPUC decision D.04-06-014.

### **PG&E's Procurement Review Group participated in review of the contract**

In D. 02-08-071, the Commission required each utility to establish a "Procurement Review Group" (PRG) whose members, subject to an appropriate non-disclosure agreement, would have the right to consult with the utilities and review the details of:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review.

The PRG for PG&E consists of: California Department of Water Resources (DWR), California Energy Commission (CEC), the Commission's Energy Division, Natural Resources Defense Council (NRDC), Union of Concerned Scientists (UCS), Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN), and the Coalition of California Utility Employees (CUE).

PG&E provided its PRG with reports on the progress of its 2004 RPS solicitation on several occasions.<sup>8</sup> The first briefing occurred on September 29, 2004, and focused on the results of PG&E's July 15, 2004 solicitation. At that briefing, PG&E described the process by which it evaluated the Offers and provided its preliminary Shortlist. At the second PRG briefing on December 14, 2004, PG&E provided a status report on the 2004 solicitation. At the March 4, 2005 meeting, PG&E provided the PRG with an overview of the projects it considered most likely to proceed to final agreement. This presentation included the negotiated terms and conditions of the PPAs.

The PRG members expressed general satisfaction with the manner in which PG&E arrived at its 2004 RPS shortlist and the resulting PPAs.

On March 29, 2006, PG&E informed its PRG that Buena Vista had asked for price concessions based on their cost increases. One party objected to allowing any contract changes, and another party recommended that PG&E could consider a

---

<sup>8</sup> While the Energy Division is a member of the PRG, its representatives did not attend any of the briefings before it had issued the draft 2004 MPR for public comment, which occurred on February 4, 2005.

price increase if the developer was willing to document their cost increases. PG&E followed this recommendation. Appendix B is the developer's letter documenting the Balance of Plant increases that made a contract price increase necessary.

Appendix C provides a summary of the relevant PRG discussion regarding the amendments to the Buena Vista PPA.

Although Energy Division is a member of the PRG, it reserved its conclusions for review and recommendation on the contracts to the resolution process. Energy Division had to review the modifications independently, and allow for a full protest period before concluding its analysis.

## **NOTICE**

Notice of AL 2828-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

Advice Letter 2828-E was not protested.

## **DISCUSSION**

### **Description of the project**

The following table summarizes the substantive features of the PPA. See Appendix A for a detailed discussion of contract prices, terms, and conditions:

<b>Generating facility</b>	<b>Type</b>	<b>Term Years</b>	<b>MW Capacity</b>	<b>Annual GWh Energy</b>	<b>Location</b>	<b>Online Date</b>
Buena Vista	Wind Repower	10	43 <sup>9</sup>	108	Altamont Pass, CA	Dec. 31, 2006

---

<sup>9</sup> 5.45 MW increase from project prior to repowering

### **PPA is consistent with PG&E's CPUC adopted 2004 RPS Plan**

California's RPS statute (SB 1078) requires the Commission to review the results of a renewable energy resource solicitation submitted for approval by a utility. The Commission will then accept or reject proposed PPAs based on their consistency with the utility's approved renewable procurement plan (Plan).<sup>10</sup> PG&E's 2004 RPS plan was approved on June 30, 2004. As determined by statute, it includes an assessment of supply and demand to determine the optimal mix of renewable generation resources, consideration of compliance flexibility mechanisms established by the Commission, and a bid solicitation setting forth the need for renewable generation of various operational characteristics.<sup>11</sup>

The proposed PPA is consistent with PG&E's approved 2004 RPS plan because (1) the PPA fits with identified renewable resource needs and (2) it was achieved through PG&E's adherence to its Solicitation Protocol, which is the primary component of the 2004 RPS plan.

### **PPA fits with identified renewable resource needs**

In its approved 2004 RPS plan, PG&E's portfolio assessment showed a "medium" need for as-available and baseload resources beginning in 2007. The need for baseload resources was high in 2008. In order to meet the 20% renewable target by 2010, PG&E would require incremental energy deliveries from newly contracted resources at an average rate of approximately 700 to 800 GWh per year. The PPA under consideration proposes to deliver about 108 GWh of as-available renewable generation per year starting in this timeframe.

### **Consideration of Repowered Projects**

The Commission has encouraged the repowering of the existing wind facilities by stating that, "the repowering of existing wind facilities in prime locations is a common-sense approach to increasing procurement of renewable energy, with costs that should be lower than for Greenfield projects."<sup>12</sup> Subsequently in its decision resolving issues related to the rank ordering and selection of least-cost, best-fit renewable generation resources, the Commission favored utility

---

<sup>10</sup> Pub. Util. Code Section 399.14(c)

<sup>11</sup> Pub. Util. Code Section 399.14(a)(3)

<sup>12</sup> D.03-06-071

evaluation methodologies that would recognize the benefits provided as a result of contract restructuring.<sup>13</sup>

The Buena Vista PPA is the sole wind repower contract that resulted from PG&E's 2004 RPS solicitation. As part of the PPA, the parties have agreed to terminate the current Standard Offer 4 contract between PG&E and the developer. In its place, the current production plus incremental generation will supply additional deliveries of renewable power priced at or below the MPR.

### **Revised contract price is at or below the 2004 MPR**

The contract price was slightly increased as part of the amendment to the contract, due to significant increases (documented in a letter from the developer, attached here as Confidential Appendix B) in turbine prices and balance of plant costs. However, the levelized contract price for this amended PPA still does not exceed the 2004 MPR.<sup>14</sup> As a result, the contract price payments are *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015 and D.04-07-029. The net present value of the sum of payments to be made under each of the PPAs is less than or equal to the net present value of payments that would be made at the market price referent for the anticipated delivery. Confidential Appendix C demonstrates that the levelized contract payments are at or below the 2004 MPR, which has been adjusted for the appropriate project on-line date.

### **PPA is a viable project**

PG&E believes that the project is viable because:

#### Financeability of resource

PG&E believes that the project has a reasonable likelihood of being financed and completed as required by the PPA and will be available to deliver energy by the guaranteed commercial operation date.

As part of the amendment to the Buena Vista contract, the developer offered an increase in the Project Development Security amount and the Performance

---

<sup>13</sup> D.04-07-029

<sup>14</sup> 2004 MPR Resolution E-3942



Assurance amount. The utility asserts that this increase in collateral requirements will further improve the likelihood of project completion.

Production Tax Credit

The existing federal production tax credit, as provided in Section 45 of the Internal Revenue Code of 1986, as amended, would substantially benefit both the buyer and the seller under the PPA.

Sponsor's creditworthiness and experience

PG&E has reviewed the bidder's credit information and is satisfied that the bidder possesses the necessary credit and experience to perform as required by the PPA.

Project milestones are being met

PG&E reported in their August 2006 Project Development Status Report that Buena Vista is on track with all of its project milestones.

**Confidential information about the contracts should remain confidential**

Certain contract details were filed by PG&E under confidential seal. Energy Division recommends that certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583, General Order (G.O.) 66-C, and D. 06-06-066 and considered for possible disclosure, should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations.

**COMMENTS**

This advice letter was not protested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

**FINDINGS**

1. PG&E filed Advice Letter 2828-E on May 15, 2006, requesting Commission review and approval of an amendment to Buena Vista, a wind repowering contract.
2. The RPS Program requires each utility, including PG&E, to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing

by a minimum of one percent per year. The Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010.

3. Wind energy facilities are RPS-eligible renewable energy resources.
4. D.04-06-014 established a 2004 IPT for PG&E of 711 GWh<sup>15</sup>.
5. D.04-06-014 also directed the utilities to issue renewable RFOs, consistent with their renewable procurement plans, between June 30, 2004 and July 15, 2004.
6. PG&E issued its RFO on July 15, 2004.
7. D.04-06-014 set forth standard terms and conditions to be incorporated into RPS PPAs.
8. Levelized contract prices below the MPR are considered *per se* reasonable as measured according to the net present value calculations explained in D.04-06-015 and D.04-07-029.
9. D.04-07-029 adopted least-cost, best-fit criteria which the utilities must use in their selection process after the RFO has been closed.
10. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities' interim procurement needs and strategy, proposed procurement process, and selected contracts.
11. PG&E briefed its PRG regarding these contracts on September 29, 2004, December 14, 2004, and on March 4, 2005 and March 29, 2006. The members of PG&E's PRG either supported or did not oppose the approval of this amended contract.
12. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the confidential appendices, marked "[REDACTED]" in the redacted copy, should not be made public upon Commission approval of this resolution.
13. The proposed contract price is at or below the 2004 MPRs released in Resolution E-3942.

---

<sup>15</sup> D.04-06-014, Appendix B (p. 3)

14. The Commission has reviewed the amended contract and finds it to be consistent with PG&E's approved 2004 renewable procurement plan.
15. Procurement pursuant to the amended PPA is procurement from an eligible renewable energy resource for purposes of determining PG&E compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.
16. Procurement pursuant to the PPA constitutes incremental procurement or procurement for baseline replenishment by PG&E from an eligible renewable energy resource for purposes of determining PG&E's compliance with any obligation to increase its totals procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.
17. Any indirect costs of renewables procurement identified in Section 399.15(a)(2) shall be recovered in rates.
18. AL 2828-E should be approved without modifications.

**THEREFORE IT IS ORDERED THAT:**

1. Advice Letter AL 2828-E is approved without modifications.
2. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 21, 2006; the following Commissioners voting favorably thereon:

---

STEVE LARSON  
Executive Director

**APPENDIX - A**  
**CONTRACT SUMMARY**  
**REDACTED**

**APPENDIX - B**  
**BALANCE OF PLANT SHEET**  
**REDACTED**

**APPENDIX - C**  
**MPR/SEP WORKSHEETS**  
**REDACTED**

**APPENDIX - D**  
**PRG MINUTES**  
**REDACTED**

## **APPENDIX - E**

### **PROPOSED PROJECT'S CONTRIBUTION TOWARD IOU RPS GOALS - CONFIDENTIAL**